

REMARKS / ARGUMENTS

Claims 1, 3, 4, 6, 7, and 9 have been amended, and Claims 1-9 are pending. Applicants have carefully considered the application in view of the Examiner's action and, in light of the foregoing amendments and the following remarks, respectfully requests reconsideration and full allowance of all pending claims.

Claim 4 stands rejected under 35 U.S.C. § 112, second paragraph, as being having insufficient antecedent basis for "each/said user device". In response, Applicants have amended Claim 4 as suggested by the Examiner to overcome the rejection, without adding any new matter to the application as originally filed. In light of the foregoing, Applicants respectfully request the withdrawal of the rejection of Claim 4 under 35 U.S.C. § 112, second paragraph.

Claims 1-6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. US 2003/0007459 A1 to Yi et al. (hereinafter "Yi"). Claims 7-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Yi* in view of U.S. Patent No. 5,253,253 to Brame et al. (hereinafter "*Brame*"). In response, Applicant has amended independent Claims 1, 4, and 7 such that they now more clearly distinguish, and are patentable over the cited references.

First, the Examiner has asserted that the arguments set forth by Applicants in the response dated November 5, 2007, are not persuasive because "N" is not defined and could, for example, be zero, in which case *Yi* would allegedly meet the claimed limitations. If, in fact, N were equal to zero, then it is submitted that Claim 1 would read, in pertinent part, as follows:

"in response to a signal from said RLC layer, said signal being indicative of discard of said SDU ... causing said RRC layer to submit to said RLC layer a CELL UPDATE message indicative of an unrecoverable error in said RLC layer for emission in response thereto."

Yi only describes the RRC in any detail at paragraph [0017] wherein *Yi* states: “the RRC has functions of setting, maintaining and cancelling of a radio bearer and allotting, repositioning or cancelling of radio resource used for radio resource access”. If it were conceded, for the sake of argument, that one of these functions were equivalent to the RRC layer submitting a cell update message, then *Yi* would still fail to teach or suggest performing such function “in response to a signal from said RLC layer, said signal being indicative of discard of said SDU” as recited above in Applicants’ original independent Claim 1.

Similarly, if N=0, independent Claim 4 would read, in pertinent part, as follows:

“in response to a signal from said RLC layer, said signal being indicative of discard of said SDU, ... submitting by said RRC layer to said RLC layer of a CELL UPDATE message arranged to cause the network control device to emit for said user communication device a CELL UPDATE CONFIRM message arranged to cause said communication device to reconfigure to a determined state.”

Similarly to Claim 1, with respect to Claim 4, *Yi* fails to teach or even suggest performing any of the above functions, arguably equivalent to the RRC layer submitting a cell update message, “in response to a signal from said RLC layer, said signal being indicative of discard of said SDU” as recited in Applicants’ original independent Claim 4.

Similarly, if N=0, independent Claim 7 would read, in pertinent part, as follows:

“in response to a signal from said RLC layer, said signal being indicative of discard of said SDU, ... releasing the connection between peer layers at the said device and the said network and entering an idle mode.”

Similarly to Claims 1 and 4, with respect to Claim 7, neither *Yi* nor *Brame*, nor the combination thereof, teaches or even suggests performing any of the above functions, arguably equivalent to releasing the connection between peer layers at the said device and the said network and entering an idle mode, “in response to a signal from said RLC layer, said signal being indicative of discard of said SDU” as recited in Applicants’ original independent Claim 7.

Still further, while *Yi* arguably teaches an RLC transmitting (and retransmitting) SDUs over a network, *Yi* fails to teach or suggest submitting (and resubmitting) an SDU from the RRC to the RLC, as recited by Applicants in independent Claims 1, 4, and 7. This constitutes a fundamental distinction between *Yi* and the invention claimed by Applicants. Indeed, because *Yi* is concerned with retransmission by the RLC, and not resubmission by the RRC, it is apparent that *Yi* actually teaches away from Applicants' invention. Still further, neither *Brame*, nor any other cited references cure this deficiency of *Yi*.

Notwithstanding the foregoing, Applicants elect, without prejudice or disclaimer, and without adding any new matter to the application (see support, e.g., Fig. 3c), to amend independent Claims 1, 4, and 7 to more particularly point out and distinctly claim one of the distinguishing characteristics of the present invention, namely, that N is a number greater than zero. This characteristic clearly distinguishes Applicants' invention from *Yi* for the case cited in the Office action wherein N=0.

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination now recited in independent Claims 1, 4, and 7. It is therefore respectfully submitted that Claims 1, 4, and 7 clearly and precisely distinguish over the cited reference or combination of references in a patentable sense, and are therefore allowable over those references and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claims 1 and 4 under 35 U.S.C. § 102(b) as being anticipated by *Yi*, and the rejection of Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over *Yi* in view of *Brame* be withdrawn.

Claims 3, 6, and 9 have been amended to recite that N=1 to conform with the aforementioned amendment to respective independent Claims 1, 4, and 7, and is

supported, for example, by original Fig. 3c, thereby adding no new matter to the application.

Claims 2, 3, 5, 6, 8, and 9 depend from and further limit independent Claims 1, 4, and 8 in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejections of dependent Claims 2, 3, 5, 6, 8, and 9 be withdrawn, as well.

Applicants do not believe any fees are due in connection with the filing of this paper; however, in the event that any other fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper, to Deposit Account No. 50-2032 of Scheef & Stone, L.L.P.

Applicants have reviewed the prior art made of record and not relied on, and has concluded that this art does not prejudice the patentability of the invention as defined by the present claims. For this reason and the reason that they have not been applied against Applicants' claims, no further discussion of them is deemed necessary.

Applicants have now made an earnest attempt to place this application in condition for allowance. Therefore, Applicants respectfully request, for the reasons set forth herein and for other reasons clearly apparent, full allowance of Claims 1-9 so that the application may be passed to issue.

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Should the Examiner have any questions or desire clarification of any sort, or deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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